

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

OGONNA HALL,

Plaintiff,

v.

SCOTT SMITH, et al.,

Defendants.

CASE No. 2:20-CV-245

HON. ROBERT J. JONKER

ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION

The Court has reviewed Magistrate Judge Vermaat’s Report and Recommendation (ECF No. 61) and Plaintiff’s Objection to the Report and Recommendation (ECF No. 65). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff’s objections.

After its review, the Court finds the Magistrate Judge's Report and Recommendation is factually sound and legally correct.

The Magistrate Judge recommends granting Defendants' motion for summary judgment (ECF No. 44) on the basis that there was no genuine issue of material fact but that Plaintiff could not establish all the requisite elements of a retaliation claim because the inventory pack-up and copying of documents were not adverse actions, and CO Smith did not act with a retaliatory purpose in requesting the pack-up. The Magistrate Judge further recommends granting the defense motion with respect to the remaining claim alleging a conspiracy. (ECF No. 61). In his objections, Plaintiff primarily reiterates and expands upon arguments presented in his original response brief. His objections fail to deal in a meaningful way with the Magistrate Judge's analysis.¹ The Magistrate Judge carefully and thoroughly considered the record, the parties' arguments, and the governing law. The Magistrate Judge properly analyzed Plaintiff's claims. Nothing in Plaintiff's Objections changes the fundamental analysis. The Court agrees with the Magistrate Judge that the defense motion should be granted, for the very reasons articulated by the Magistrate Judge.

¹ For example, Plaintiff claims in his objections that the Magistrate Judge failed to consider whether Defendant Smith's statement "I got what I need, I think I got my point across to you" constitutes an adverse action. (Objection 1, ECF No. 65, PageID.553). Contrary to Plaintiff's assertions, the Magistrate Judge specifically referenced this alleged statement in the R&R. (ECF No. 61, PageID.531). The Magistrate Judge then went on to conclude that Smith's actions surrounding the copying did not rise to the level of adverse conduct. (ECF No. 61, PageID.536). The Court agrees.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 61) is **APPROVED AND ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED Defendants' Motion for Summary Judgment (ECF No. 44) is **GRANTED**.

A separate Judgment shall issue.

Dated: January 25, 2023

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE